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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/655,833	09/05/2003	Sonya Ann Curry	CM2694	7078

27752 7590 03/24/2006

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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CINCINNATI, OH 45224

EXAMINER

MOHANDESI, JILA M

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 03/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/655,833

Applicant(s)

CURRY ET AL.

Examiner

Jila M. Mohandesi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01-19-06 (RCE and remarks).
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 8-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 8-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 19, 2006 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-2 and 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Procter & Gamble Company (GB 2 369 094) herein after Procter in view of Dull et al. (5,645,169). Procter discloses a packaged product comprising: a plurality of flexible

water soluble liquid-detergent-filled pouches; an outer container (box or tub with reclosable lid) for containing the liquid-detergent-filled pouches; wherein the outer container contains a plurality of flexible liquid-detergent-filled pouches whereby at least two or more of the flexible liquid-detergent-filled pouches are in mutual contact (see page 6, lines 16-26), and wherein the outer container further comprises means (protective bag enclosing the pouches) for avoiding or minimizing rupture of the flexible liquid-filled pouches when the outer container is subject to shock.

With respect to claim 13, note the bag, see page 16, lines 1-6.

The product-by-process limitation in claim 14 results in no structure that is different from Procter.

With respect to claims 15-16 and the cushioning material, note the protective plastic or paper layers, see page 15, lines 25-28.

With respect to claim 11, Procter discloses that the outer container can contain a plurality of pouches in a random orientation whereby at least two or more of the flexible pouches are in mutual contact, see page 6, lines 16-20. Procter does not appear to teach the tub being injection molded plastic tub and the means for avoiding or minimizing rupture comprising a cushioning material selected from corrugated cardboard. Dull '169 discloses a packaged product comprising: a plurality of flexible water soluble liquid-filled pouches; an injection molded plastic outer container for containing the liquid-filled pouches; wherein the outer container contains a plurality of flexible liquid-filled pouches whereby at least two or more of the flexible liquid-filled pouches are in mutual contact, and wherein the outer container further comprises

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means for avoiding or minimizing rupture (corrugated cardboard cushioning outer sleeve 30) of the flexible liquid-filled pouches when the outer container is subject to shock. See Figures 1-15 embodiments. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the tub of Procter injection molded plastic tub as taught by Dull '169 for better protecting the pouches from environmental damage.

With respect to claim 1 and 17, note the corrugated cushioning outer sleeve (30) in Figure 3 embodiment of Dull '169, which will due to its thickness minimize rupture of the flexible liquid-filled pouches when the outer container is subject to shock. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the means for avoiding or minimizing rupture of Procter from corrugated cardboard cushioning material as taught by Dull '169 to provide better protection for the pouches.

Response to Arguments

5. Applicant's arguments filed January 19, 2006 have been fully considered but they are not persuasive. The corrugated cushioning sleeve of Dull '169 will inherently due to its thickness provide cushioning and help in avoiding or minimizing rupture of the pouches by providing protection to the outside of the plastic tub of Procter as modified above.

Contrary to applicant's arguments Procter discloses piling the pouches in immediate proximity to one another and not preventing from touching each other.

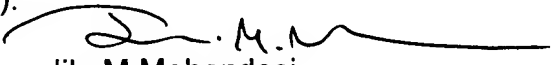
Applicant is correct in assuming that the rejection in last office action under 35 U.S.C. 102(b) over Procter in view of Dull was actually a rejection under 35 U.S.C. 103. The examiner made a mistake of using the wrong form paragraph, but her intentions as was clear from the lay out of the rejection was a 103 rejection based on obviousness.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jila M. Mohandesi whose telephone number is (571) 272-4558. The examiner can normally be reached on Monday-Friday 7:30-4:00 (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jila M Mohandesi
Primary Examiner
Art Unit 3728

JMM
March 21, 2006